

Application Number 10/725,704
Amendment dated September 30, 2004
Responsive to Office Action mailed June 30, 2004

REMARKS

This Amendment is responsive to the Office Action dated June 30, 2004. Applicants have amended claims 1, 3-8, 12-15, 17 and 19. Claims 1-23 are pending.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

In the Office Action, the Examiner rejected all of Applicants' pending claims 1-23. The Examiner rejected claims 1-4, 9 and 17 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,021,349 to Arand et al. ("Arand"); rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Arand; rejected claim 6 as being unpatentable over Arand in view of U.S. Design Patent 366,258 to Fraser et al. ("Fraser"); rejected claims 7 and 18-23 as being unpatentable over Arand in view of U.S. Patent No. 6,243,819 to Jung ("Jung"); rejected claims 8, 10-14 and 16 as being unpatentable over Arand in view of U.S. Patent 5,025,206 to Germer et al. ("Germer"); and rejected claim 15 as being unpatentable over Arand in view of Germer as applied to claim 10, and further in view of Fraser. Applicants respectfully traverse these rejections to the extent such rejections may be considered applicable to the amended claims. The applied references fail to disclose or suggest the inventions defined by Applicants' claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

Claims 1-9

For example, the applied references fail to disclose or suggest an actuator assembly that contacts a mode changing switch when the actuator assembly is actuated to open a defibrillator door, as required by independent claim 1 as amended. The Examiner cited Arand as anticipating claim 1, and argued that Arand discloses that a defibrillator door may be operatively coupled to a switch. However, even if Arand does indicate that a defibrillator door may be operatively coupled to a switch, as argued by the Examiner, Arand does not identify any structures or techniques for achieving such operative coupling. Consequently, Arand does not disclose or suggest an actuator assembly, much less the above-identified requirement of independent claim 1 as amended.

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Further, none of the other references cited by the Examiner discloses or suggests this requirement. For example, contrary to this requirement, the lid latch hook of the laptop computer described by Jung is removed from contact with the power switch when a knob is lifted to open the computer lid.¹ Consequently, even if one of ordinary skill in the art at the time of Applicants' invention had been motivated to modify the Arand device in view of the Jung reference, the combination would not have resulted in the invention defined by amended claim 1.

As another example, the applied references fail to disclose or suggest an actuator assembly of a door that comprises a bump that contacts a mode changing switch when the actuator assembly is actuated to open the door, as required by claim 7 as amended. Recognizing that Arand fails to disclose or suggest an actuator assembly that comprises a bump, the Examiner argued that it would have been obvious to combine the teachings of Arand and Jung to meet this requirement. However, the knob described by Jung, which the Examiner argues is a bump, does not come into contact with a mode changing switch when an actuator assembly is actuated to open a door, as required by claim 7 as amended.² Consequently, even if one skilled in the art had been motivated to combine Arand and Jung as suggested by the Examiner, the combination would not have resulted in the invention defined by claim 7 as amended.

Further, none of the applied references discloses or suggests a door having first input media for activating first mode user commands located on a first side of the door, and second input media for activating second mode user commands located on a second side of the door, as required by claim 5 as amended. In the Office Action, the Examiner argued that instruction labels located on a defibrillator as described as by Arand are user commands. However, the instruction labels described by Arand are not input media, as required by claim 5 as amended.

Additionally, none of the applied reference discloses or suggests a door of a defibrillator that has a plurality of apertures to allow a user to access input media for activating first mode user commands, as required by claim 6. Recognizing that Arand fails to disclose or suggest this requirement of claim 6, the Examiner argued that it would have been obvious to modify Arand to include a door with apertures as depicted by the Fraser design patent. However, the Examiner has cited no teaching or suggestion in the prior art of a motivation to make such a modification.

¹ Jung, 4:40 – 5:35, FIG. 3.

² *Id.*

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In particular, contrary to the Examiner's assertion, the Fraser design patent does not "teach" adding an aperture to a door to provide limited access to important buttons. The Fraser "disclosure," merely depicts an ornamental design of a mobile phone that includes a cover with two apertures. As a design patent, Fraser necessarily does not provide any teaching of the reason for inclusion of the depicted apertures in the cover or their function. Nonetheless, even if Fraser did teach including apertures in a door to allow a subset of buttons beneath the door to be accessed, as the Examiner argues, the Examiner has not identified any teaching or suggestion that would have motivated one of ordinary skill in the art to modify the defibrillator described by Arand to include such a door.

In support of the rejection of claim 6, the Examiner argued that it would have been obvious to either add apertures to the door 20, which is described by Arand as preventing or discouraging AED mode users from accessing manual mode buttons 50, 51, or add a door to the Arand defibrillator over soft keys 40 with apertures that expose only some of soft keys 40.³ However, inclusion of apertures in door 20 would entirely frustrate the purpose of the door as described in Arand by allowing *all* users to view and access manual mode buttons 50, 51. Further, Arand nowhere suggests that it would have been desirable to provide access to a subset of soft keys 40. Moreover, one skilled in the art at the time of Applicants' invention would recognize that the Arand defibrillator is already able to provide limited or selective access to the functions provided by the soft keys, without the addition of such a door, by changing the function of the soft keys and their labels 46 on the defibrillator display 36. Consequently, one of ordinary skill in the art would have viewed inclusion of an additional door with apertures over soft keys 40 as unnecessary, and even nonsensical.

Also, the Fraser design patent is a clear example of nonanalogous art, which the Examiner cannot use as a basis for rejecting Applicants' claim. In order to rely on a reference, the reference must either be within the same field of endeavor of the claimed invention or, because of the subject matter with which it deals, reasonably pertinent to problems addressed by the claimed invention.⁴ Fraser depicts a mobile phone, which is not in the same field of endeavor

³ Arand, 5:45-55.

⁴ See *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992); *In re Clay*, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992)

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as the claimed invention. Moreover, in attempting to provide selective access to commands associated with different operational modes of a defibrillator to different users, an ornamental design for a mobile phone, which is a device typically used in a single mode by a single user, would not have provided any teachings reasonably pertinent to the problems addressed by the claimed invention.

For at least the reasons discussed above, the Examiner has failed to establish a prima facie case for the unpatentability of any of Applicants' claims 1-9 under 35 U.S.C. §§102 and 103. Withdrawal of these rejections is requested.

Claims 10-16 and 21-23

Independent claim 10 requires that a switch sends a defibrillator from a first mode to a second mode when a door that is operably coupled to the switch is opened, and that the defibrillator remains in the second mode when the door is subsequently closed. Similarly, independent claim 21 requires that a defibrillator be placed in a second mode based on opening of a mode changing door, and kept in the second mode when the mode changing door is closed while the defibrillator is in the second mode. The applied references fail to disclose or suggest these requirements of independent claims 10 and 23.

With respect to claim 10, the Examiner argued that it would have been obvious to add a switch as described by Germer to the door of the defibrillator described by Arand, and that addition of these elements would allow the Arand defibrillator to remain in a second mode independently of the position of the door. However, even if one skilled in the art were motivated to modify the Arand defibrillator as suggested, and even assuming that such a modification would allow the defibrillator to remain in a second mode independent of the position of the door, the invention defined by claim 10 would still not be met. In particular, the switch described by Germer maintains an energy meter in a test mode only so long as it is depressed. Consequently, in order to allow the Arand defibrillator to remain in a second mode independent of the position of the door, such a switch located on the door of the Arand defibrillator would need to be depressed by something other than the door. In other words, the only way in which a switch as described by Germer could allow the defibrillator to remain in a second mode independently of the position of the door, is by not being operably coupled to the door and sending the

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defibrillator from the first mode to the second mode when the door is opened, in direct contradiction to the requirements of claim 10.

Although it is unclear in the Office Action whether the Examiner also applied this combination of Arand and Germer to claim 21, the Examiner did argue that the limitation in claim 21 that the defibrillator is placed in a second mode based on opening of a mode changing door is provided for by the combination because "to place the device of the proposed combination in the second mode would include pressing the switch and opening the door to access the keys."⁵ However, the quoted statement by the Examiner implicitly recognizes that, even when operated in the hypothetical manner proposed by the Examiner, the defibrillator resulting from the combination of Arand and Germer is placed in the second mode based on the pressing of the switch, and not the opening of the door. As discussed with regard to claim 10, a switch as described by Germer cannot place the defibrillator in the second mode based on opening of the door and, instead, will only place the defibrillator in the second mode based on actuation of the switch by something other than the door. Consequently, there is no hypothetical operation of the defibrillator resulting from the combination of Arand and Germer that would meet this requirement of claim 21.

The Examiner also argues that it would have been obvious to modify the defibrillator described by Arand to include a knob, latch and bump as described by Jung to meet the requirements of claim 21. In particular, the Examiner argued that, with the knob rotated, latch retracted, and switch not actuated by the retracted latch, as illustrated by dashed lines in FIG. 3 of the Jung disclosure, the defibrillator resulting from the combination of Arand and Jung could be kept in the second mode with the door closed so long as a user wished to hold the knob in the rotated position. However, this description of the operation of the Arand defibrillator clearly illustrates that it would fail to meet at least one other requirement of claim 21, because the defibrillator is placed in the second mode based on rotation of the knob rather than opening of the mode changing door. In other words, the defibrillator is placed in the second mode by rotating knob, whether or not the door is actually opened. Consequently, even if one skilled in

⁵ Office Action, p. 7.

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the art were motivated to modify the Arand defibrillator to include the identified features from the Jung disclosure, the invention defined by claim 21 would still not be met.

Like claims 5 and 6 discussed above, claims 14 and 15 recite a door having actuatable first mode user commands located on a first side of the door, and actuatable second mode user commands located on a second side of the door, and a door of a defibrillator that has a plurality of apertures to allow a user to access first mode user commands, respectively. Consequently, for the reasons discussed above with reference claims 5 and 6, the Examiner has failed to make a prima facie case of unpatentability of claims 14 and 15.

For at least the above identified reasons the Examiner has failed to establish a prima facie case for the unpatentability of any of Applicants' claims 10-16 and 21-23 under 35 U.S.C. § 103. Withdrawal of these rejections is requested.

Claims 17-20

None of the applied references disclose or suggest a door coupled to a defibrillator that conceals first input media for operating the defibrillator in a manual mode, and allows a user to access second input media for operating the defibrillator in an AED mode, the second input media located beneath the door when the door is in a closed position, as required by independent claim 17 as amended. The Examiner cited Arand as anticipating claim 17. However, as illustrated by FIG. 5 of the Arand disclosure, which was reproduced by the Examiner in the Office Action, the AED command buttons 22, 24, 26 40 of the Arand defibrillator are not located beneath the door 20, as required by claim 17.

For at least this reason the Examiner has failed to establish a prima facie case for the unpatentability of any of Applicants' claims 17-20 under 35 U.S.C. §§ 102 and 103. Withdrawal of these rejections is requested.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any

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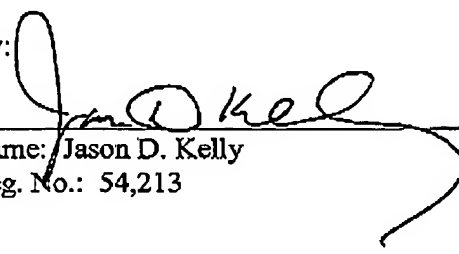
additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

9/30/04

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